

**Idaho Board of Health and Welfare
Minutes**

August 12, 2005

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Building
450 W. State Street, 10th Floor CR
Boise, Idaho

CALL TO ORDER

Chairman Kenyon called the meeting to order at 8:05 am.

ROLL CALL

Janet Penfold, Secretary, called the roll.

Board Members Present:

Quane Kenyon, Chairman
Janet Penfold, Secretary
Dr. Richard Roberge, Member
Stephen Weeg, Member
Dan Fuchs, Member

Board Members Excused:

Dr. Jack Riggs, Member

Ex-Officio Members Excused:

Senator Dick Compton
Representative Sharon Block

Department of Health and Welfare Staff Present:

Joe Brunson, Deputy Director
Jeanne Goodenough, DAG
Martha Puett, Director's Office
Sherri Kovach, Administrative Procedures
Tom Shanahan, Public Information
David Rogers, Medicaid

Others Present:

Dr. Lee Parsons, OB/GYN
Hailey Parsons, General Public
Brent King, DAG
David Leroy, Attorney at Law
Gabriel and Maria Batres, Appellant and Wife
Cyntyhia Fisher, Appellant

PUBLIC COMMENT PERIOD

Chairman Kenyon opened the floor for public comment for 15 minutes on any subject not specifically shown on the agenda. Dr. Parsons, local obstetrician, testified on the increased use of methamphetamine and the health impacts to the user, and the subsequent effects to children and families. Also, there are impacts to communities and state agencies which provide support to children and/or families affected. Dr. Parsons petitioned the Board to make pseudoephedrine (an ingredient used in the making of methamphetamine) unavailable for over-the-counter purchase and to consider requiring a prescription for its purchase.

Joe Brunson reported that Governor Kempthorne and his Cabinet members have placed major emphasis within respective programs focusing on meth, clean-up issues, and treatment programs. Currently, the Department is in the process of promulgating rules for meth clean-up; these rules will be presented to the Legislature next year. Mr. Brunson stated that 85% of the children placed in foster care through the Department's child welfare system come from meth homes with meth being the root cause for neglect and/or abuse. Recently, a drug treatment grant was awarded through the Governor's Office which will bring in about \$22 million over the next three years to pay for treatment; however, there are not enough treatment programs developed throughout the state to treat meth users. Mr. Brunson recommended that various groups like the OB/GYN's, the Idaho Hospital Association, Idaho Medical Association, local hospitals, governmental agencies, Governor's office, and others work cooperatively to develop a systematic way of approaching the meth problem and create infrastructure development for treatment programs, and to promulgate legislation which makes pseudoephedrine less readily available.

Mr. Brunson will follow-up with Senator Compton and the Governor's Office and report back at the November Board meeting. Any help that Dr. Parsons may generate from the medical societies who could advocate for monetary enhancements would be greatly appreciated.

AGENDA ITEM #1: GABRIEL BATRES VS. IDAHO DEPARTMENT OF HEALTH & WELFARE APPEAL NO. 04-CC0622-0319: REVOCATION OF CERTIFIED FAMILY HOME CERTIFICATION

Chairman Kenyon stepped down as Chair for this particular case stating a minor conflict of interest as he is quite well acquainted with Mr. Leroy, and requested Dr. Roberge, Vice-Chair, conduct the hearing.

David Leroy and Brent King, Deputy Attorney General for the State of Idaho, Department of Health and Welfare, were each given one-half hour to present oral argument regarding the hearing officer's decision to uphold the Department's decision to revoke Mr. Gabriel Batres' certification as a certified family home. The Board deliberated with all parties present.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare affirms the hearing officer's finding of medical neglect; however, the Department's sanction of revoking Mr. Batres' license is herein modified to ban admissions of all persons from date of revocation to August 11,

2005. Therefore the license will be reinstated and held by Mr. Batres and will be monitored by the Department with such condition as the Department deems necessary.

Second: Dan Fuchs

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

**AGENDA ITEM #2: CYNTHIA FISHER VS. IDAHO DEPARTMENT OF HEALTH AND WELFARE
APPEAL NO. 04-CC0639-0319: REVOCATION OF CERTIFIED FAMILY
HOME CERTIFICATION**

Cynthia Fisher and Brent King, Deputy Attorney General for the State of Idaho, Department of Health and Welfare, were each given one-half hour to present oral argument regarding the hearing officer's decision to uphold the Department's decision to revoke Ms. Fisher's certification as a certified family home. The Board deliberated with all parties present

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare reverse the hearing officer's determination and find "abuse" was substantiated and modify the penalty of revocation of certification to a period of suspension ending August 11, 2005 and reinstate the certification as a certified family home to August 12, 2005.

Second: Dr. Roberge

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

AGENDA ITEM #3: APPROVAL OF BOARD MINUTES

Chairman Kenyon presented the minutes of the June 16, 2005 meeting for adoption.

Motion: Janet Penfold moved for approval of the minutes of the June 16, 2005 Board Meeting.

Second: Dan Fuchs

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

AGENDA ITEM #4: DIRECTOR'S REPORT

Joe Brunson, Deputy Director, introduced Margo Miller, Administrative Assistant in the Director's Office; Ms. Miller previously worked in the Family and Community Services Division and recently transferred to the Director's Office.

Joe Brunson reported the Department's budget process has begun and staff is hard at work on prioritization of decision units; of high priority is employee compensation as pay raises for state

employees have been sparse for the last several years. Mr. Brunson also reported on the following areas:

- Replacement of EPICS – eligibility automation system; the current system is 20 years old and quite outdated so funding will be requested.
- Case load growth in Self Reliance has increased dramatically so the Department will be evaluating and requesting positions.
- The Department has applied for a mental health transformation grant; this is a federal grant which will assist the Department to evaluate the state's entire mental health system. If the grant is not awarded the Department will be requesting state funds.
- The Infant Toddler Program, which provides early intervention, continues to grow so we will be requesting funding.
- Staff has been working with the CEC Subcommittee which is reviewing the Hay personnel rating system and compensation (factors that affect recruitment and retention).
- In October, all eligible state employees will receive a 1% pay increase.
- The Department is currently working with The Hay Group to review the Department's management system. The Office of Performance Evaluations has been instructed by the Joint Legislative Oversight Committee to review the Department's management levels.
- Tracy Farnsworth has been hired as the new administrator at State Hospital South.
- Recruitment for a State Hospital North administrator is underway.
- The Department submitted the County Investment report in early August; good feedback has been received from the communities. Board members commented this was really good information and they appreciated receiving it.

AGENDA ITEM #5: RULES GOVERNING CERTIFIED FAMILY HOMES
DOCKET NO. 16-0319-0501 (REPEAL) (TEMPORARY)

David Rogers, Administrator, Division of Medicaid, reported this chapter of rules is being repealed to better serve Idaho's population of vulnerable adults living in certified family homes. The entire chapter of rules is being rewritten under Docket 16-0319-0502. Legislation adopted in 2005 made this chapter of rules out of alignment with statute changes. This chapter had requirements that were better suited for larger facilities and were not always appropriate for a certified family home serving one or two people.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare adopt as temporary, rules Governing Certified Family Homes as presented under Docket No. 16-0319-0501, with the effective date of the temporary July 1, 2005.

Second: Dan Fuchs

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

AGENDA ITEM #6: RULES GOVERNING CERTIFIED FAMILY HOMES
DOCKET NO. 16-0319-0502 (RE-WRITE) (TEMPORARY)

David Rogers, Administrator, Division of Medicaid, reported this chapter of rules is being

repealed to better serve Idaho's population of vulnerable adults living in certified family homes that provide services in a safe, home-like environment. The repeal of this chapter was published under Docket 16-0319-0501. Legislation adopted in 2005 made this statute changes for certified family homes. These rules are being adopted as temporary rules to align with statute changes that are effective July 1, 2005.

Board members commented on the amount of training required for providers (8 hours per year) under Section 115, and the use of mobile homes in Section 701.01 referred to "late model mobile homes." Mr. Rogers stated he believed "the date the home was manufactured is within 18 years of the date of initial certification" requirement was a carryover standard from previous negotiations.

With regards to training, Mr. Rogers stated he is optimistic that the different framework will allow opportunities to evaluate training and training needs specific to certified family home providers. Mr. Brunson stated that the standard of "18 years of the date of initial certification" ties into a regulatory and safety code change some time ago.

Motion: Dan Fuchs moved that the Idaho Board of Health and Welfare adopt as temporary, rules Governing Certified Family Homes as presented under Docket No. 16-0319-0502, with the effective date of the temporary July 1, 2005.

Second: Dr. Roberge

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

AGENDA ITEM #7: RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES
DOCKET NOS. 16-0411 & 16-0412 (REPEAL/RE-WRITE)

Sherri Kovach, Supervisor, Rules Unit, reported these rules will come before the Board in November as pending and are being provided early for the Board's review.

Mr. Rogers reported the responsibility for licensure of developmental disabilities agencies was transferred about 1 ½ years ago from Family and Community Services to Medicaid. At that same time, Medicaid implemented the care management program for adults with developmental disabilities so there have been significant changes in the service delivery system for these populations, thus the need to update the rules.

AGENDA ITEM #8: UPCOMING BOARD MEETING

Board members agreed to cancel the September 9, 2005 meeting, and to reschedule the November 3 & 4, 2005 to November 9 & 10, 2005.

AGENDA ITEM #9: CLIFFORD SANDERS VS. IDAHO DEPARTMENT OF HEALTH AND
WELFARE - APPEAL NO. 04-CC0679-0602: DID THE PETITIONER
ESTABLISH HIS ELIGIBILITY FOR FOSTER CARE LICENCE?

As both parties waived oral argument, the Board reviewed and deliberated the record before it. Based on the Board's review and deliberation, the Board affirmed and adopted the Preliminary Order finding that Mr. Sanders had failed to establish his eligibility for foster care license.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare hereby affirms the hearing officer's Findings of Fact, Conclusions of Law and Preliminary Order as our Final Order and Decision in the Case of Clifford Sanders vs. the Idaho Department of Health and Welfare, Appeal No 04-CC0679-0602.

Second: Dr. Roberge

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

AGENDA ITEM #7: ADJOURNMENT:

Motion: Chairman Kenyon moved to adjourn the meeting at 2:00 pm.

Vote: Motion carried. 5 Ayes 0 Nays 1 Absent (Riggs)

Respectfully signed and submitted by:

Quane Kenyon, Chairman, Health and Welfare Board

Janet F. Penfold, Secretary, Health and Welfare Board

Martha Puett, Executive Assistant and Recorder